

### **Part 3**

## **Profits from Notorious Criminal Activity Act**

### **77-38-301 Title.**

This part is known as the "Profits from Notorious Criminal Activity Act."

Amended by Chapter 260, 2012 General Session

### **77-38-302 Definitions.**

As used in this part:

- (1) "Convicted person" means a person who has been convicted of a crime.
- (2) "Conviction" means an adjudication by a federal or state court resulting from a trial or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity, or not guilty but having a mental illness regardless of whether the sentence was imposed or suspended.
- (3) "Fund" means the Crime Victim Reparations Fund created in Section 51-9-404.
- (4) "Memorabilia" means any tangible property of a convicted person or a representative or assignee of a convicted person, the value of which is enhanced by the notoriety gained from the criminal activity for which the person was convicted.
- (5) "Notoriety of crimes contract" means a contract or other agreement with a convicted person, or a representative or assignee of a convicted person, with respect to:
  - (a) the reenactment of a crime in any manner including a movie, book, magazine article, Internet website, recording, phonograph record, radio or television presentation, or live entertainment of any kind;
  - (b) the expression of the convicted person's thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or
  - (c) the payment or exchange of any money or other consideration or the proceeds or profits that directly or indirectly result from the notoriety of the crime.
- (6) "Office" means the Utah Office for Victims of Crime.
- (7) "Profit" means any income or benefit:
  - (a) over and above the fair market value of tangible property that is received upon the sale or transfer of memorabilia; or
  - (b) any money, negotiable instruments, securities, or other consideration received or contracted for gain which is traceable to a notoriety of crimes contract.

Amended by Chapter 278, 2013 General Session

### **77-38-303 Profit from sale of memorabilia or notoriety of crimes contract -- Deposit in Crime Victim Reparations Fund -- Penalty.**

- (1) Any convicted person or a representative or assignee of a convicted person who receives a profit from the sale or transfer of memorabilia shall remit to the fund:
  - (a) a complete, itemized accounting of the transaction, including:
    - (i) a description of each item sold;
    - (ii) the amount received for each item;
    - (iii) the estimated fair market value of each item; and
    - (iv) the name and address of the purchaser of each item; and

- (b) a check or money order for the amount of the profit, which shall be the difference between the amount received for the item and the estimated fair market value of the item.
- (2) Any person who willfully violates Subsection (1) may be assessed a civil penalty of up to \$1,000 per item sold or transferred or three times the amount of the unremitted profit, whichever is greater.
- (3)
  - (a) Any person or entity who enters into a notoriety of crime contract with a convicted person or with a representative or assignee of a convicted person shall pay to the fund any profit which by the terms of the contract would otherwise be owing to the convicted person or representative or assignee of the convicted person.
  - (b) A convicted person or a representative or assignee of a convicted person who has received any profit from a notoriety of crime contract shall remit the profit to the fund. Any future profit which, by the terms of the contract, would otherwise be owing to the convicted person or a representative or assignee of a convicted person shall be paid to the fund as required under Subsection (3)(a).
- (4) Upon receipt of money under Subsection (3), the office shall distribute the amounts to the victim of the crime from which the profits are derived if any restitution remains outstanding. If no restitution is outstanding, the money shall be deposited into the fund.
- (5)
  - (a) Any person or entity who willfully violates Subsection (3) may be assessed a civil penalty of up to \$1,000,000.00, or up to three times the total value of the original notoriety of crime contract, whichever is greater.
  - (b) Any civil penalty ordered under this Subsection shall be paid to the fund.
- (6) The prosecuting agency or the attorney general may bring an action to enforce the provisions of this chapter in the court of conviction.
- (7) A court shall enter an order to remit funds as provided in this chapter if it finds by a preponderance of the evidence any violation of Subsection (1) or (3).

Amended by Chapter 278, 2013 General Session